IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 22615 of 2004

Between:

S. Devija S/o Pooriya, Unemployee, R/o Gathak Thanda of Hothi (K) Village, Zaheerabad Mandal, Medak District

..... PETITIONER

AND

1 The Joint Collector (Civil Supplies), Medak District, Office at Sangareddy
2 The Revenue Divisional Officer (Civil Supplies), Sangareddy Division, Office at Sangareddy
3 P. Gopal S/o Anjanna, Temporary employee of Zaheerabad Municipality, R/o Hothi (K) Village, Zaheerabad Mandal, Medak District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in selecting the 3rd respondent as Fair-Price shop dealer in respect of Hothi (K) Village, Zaheerabad Mandal, Medak District ignoring the candidature of the petitioner though the 3rd respondent is ineligible for the said post and further though the petitioner is eligible for the said post being Scheduled Tribe in pursuant to the notification dated 17-11-2004 in file No. B2.2858.2004 as illegal unlawful and contrary to the notification and consequently direct the 2nd respondent to appoint the petitioner as fair-price shop dealer for the above village.

Counsel for the Petitioner : MR.M.DAMODER REDDY

Counsel for the Respondents 1 and 2 : GP FOR CIVIL SUPPLIES; None for R3

The Court, at the stage of admission, made the following :

ORDER:

Petitioner and respondent No.3 submitted applications in response to a notification, dated 17.11.2004, issued by the 2nd respondent, for selection and appointment of a fair price shop dealer for Hothi (K) Village, Zaheerabad Mandal, Medak District. The interviews are said to have been held on 19.11.2004. It is stated that the 3rd respondent was selected as the dealer.

Petitioner contends that the father of the 3rd respondent is an employee of the Zaheerabad Municipality, and thereby the 3rd respondent is not entitled to be appointed as dealer. He places reliance upon Clause 10(2) of G.O.Ms.No.198, dated 05.02.1996. Petitioner contends that he preferred an appeal before the 1st respondent together with an application for grant of stay. His grievance is that the 1st respondent has not passed any orders so far, and in the meanwhile, the 2nd respondent is taking steps to appoint the 3rd respondent as dealer.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 3rd respondent came to be selected as the dealer. The petitioner challenges his selection on the ground that he incurred disqualification under Clause 10 (2) of the G.O.Ms.No.198, dated 05.02.1996. He has rightly availed the remedy of appeal before the 1st respondent. The questions as to whether the 3rd respondent incurred any disqualification and whether his selection suffers from any infirmity, need to be considered in the appeal. If it is found that the selection of the 3rd respondent is illegal, for any reason, it can certainly be set aside. However, the selection of a candidate cannot be suspended or stayed, and it has to be presumed as valid till it is set aside by a competent authority.

Hence, the writ petition is disposed of directing that the selection of the 3rd respondent shall be subject to the outcome of the appeal preferred by the petitioner, and the 1st respondent shall dispose of the appeal, within four weeks from the date of receipt of a copy of this order. If any order of appointment is issued to the 3rd respondent, it shall be specifically endorsed therein that it shall be subject to the orders that may be passed by the 1st respondent. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 08th December, 2004

Note: Office to furnish copy

In three days.

(B/o.)

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To

1 The Joint Collector (Civil Supplies), Medak District, Office at Sangareddy.
2 The Revenue Divisional Officer (Civil Supplies), Sangareddy Division, Office at

Sangareddy.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad(OUT).

4 Two C.D. copies.